

AG Contract No.: KR04-0028TRN  
ADOT ECS File No.: JPA 03-099  
Project No.: HRF-LHV-0-794  
TRACS No.: 0000 MO LHV HF094 01C  
Section: London Bridge Road  
HURF Exchange Program

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF LAKE HAVASU CITY

THIS AGREEMENT is entered into 12th March, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF LAKE HAVASU CITY acting by and through its MAYOR and CITY COUNCIL (the "City").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$356,400.00 Highway User Revenue Funds (HURF) in Fiscal Year 2004 to the City for the construction of improvements to London Bridge Road from Palo Verde Blvd. South to Industrial Blvd., and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$375,841.00 in Fiscal Year 2004.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 26716  
Filed with the Secretary of State  
Date Filed: 03/12/2004

Janice K. Brewer  
Secretary of State

By: Darryl J. Greenwald

## **II. SCOPE OF WORK**

### **1. The City will:**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project construction cost, at the sixty percent construction completion stage, and for thirty percent of the project cost at the ninety percent project construction completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, WACOG, and the State (ADOT) representatives have completed final project review.

### **2. The State will:**

a. Within 30 days after receipt and approval of an invoice, pay for thirty percent of the project construction cost at the start of construction; and for thirty percent of the project cost at the sixty percent project completion state, and for thirty percent of the project cost at the ninety percent project completion state, and pay 10 percent upon completion of construction.

## **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. Non-Discrimination. The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.

8. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds. Every payment obligation of State and the City under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State and the City at the end of the period for which the funds are available. No liability shall accrue to the State and the City in the event this provision is exercised, and the State and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

10. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue – Mail Drop 616E  
Phoenix, AZ 85007  
Fax: (602) 712 7424

Lake Havasu City  
City Manager  
2330 McCulloch Blvd. N.  
Lake Havasu, AZ 86403

11. In Accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF LAKE HAVASU CITY**

**STATE OF ARIZONA**  
Department of Transportation

By Bob Whelan  
BOB WHELAN  
Mayor

By Dale Buskirk  
DALE BUSKIRK, Division Director  
Transportation Planning Division

ATTEST

By Carla Simendich  
CARLA SIMENDICH  
City Clerk

RESOLUTION NO. 04-1820

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU  
CITY, MOHAVE COUNTY, ARIZONA, AUTHORIZING THE  
MAYOR TO EXECUTE AN INTERGOVERNMENTAL  
AGREEMENT WITH THE STATE OF ARIZONA (ADOT)  
FOR CONSTRUCTION OF IMPROVEMENTS TO  
LONDON BRIDGE ROAD**


WHEREAS, the Arizona Department of Transportation has approved the exchange of \$356,400.00 in Highway User Revenue Funds (HURF) to the City for construction of improvements to London Bridge Road in the City; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council hereby approve this intergovernmental agreement for the intent and purpose stated above, and authorize the Mayor to execute said agreement with the State of Arizona (ADOT) relating to the construction of improvements to London Bridge Road.

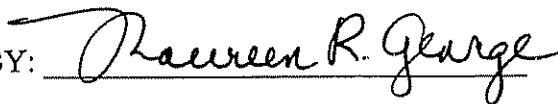
PASSED AND ADOPTED by the Mayor and City Council of Lake Havasu City, Arizona, this 10<sup>th</sup> day of February, 2004.

  
Bob Whelan, Mayor

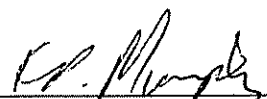
ATTEST:

  
Carla Simendich, City Clerk

APPROVED AS TO FORM  
LAKE HAVASU CITY ATTORNEY'S OFFICE:

BY: 

REVIEWED BY:

  
Kevin P. Murphy, Public Works Director

APPROVAL OF THE CITY OF LAKE HAVASU CITY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF LAKE HAVASU CITY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 12<sup>th</sup> day of February, 2004

Michael D. Slone  
Asst City Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE 602.542.8855

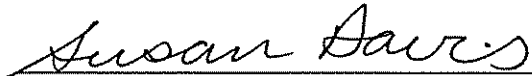
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR04-0028TRN (JPA 03-099), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: March 8, 2004.

TERRY GODDARD  
Attorney General

  
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SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED/mjf  
Attachment  
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